

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
)
1998 Biennial Regulatory Review -- Review of)
the Commission's Broadcast Ownership Rules)
and Other Rules Adopted Pursuant to Section)
202 of the Telecommunications Act of 1996)

MM Docket No. 98-35

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COMMENTS OF LEE ENTERPRISES, INCORPORATED

Lee Enterprises, Incorporated ("Lee"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Inquiry in its biennial review proceeding.¹ Lee supports elimination of the Commission's newspaper/broadcast ownership rule. Lee regards the rule to be unnecessary and counterproductive. If the rule is not eliminated, Lee would urge the adoption of a waiver standard which realistically assesses the numerous competing media in local markets today.

Background

Lee is the owner of 21 daily newspapers, 73 weekly newspapers and specialty publications, and 16 television stations, including 7 satellite stations. The company has a long and distinguished tradition of ownership in print and broadcast. It has owned newspapers for

¹ 1998 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules, MM Docket No. 98-35, FCC 98-37 at 1 (rel. March 13, 1998) ("Notice of Inquiry").

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over 100 years and acquired its first radio station in 1937. Hence, Lee is thoroughly familiar with the practices and policies in these media affecting the autonomy of local operations. (Lee's initial radio and television operations were co-located with Lee newspapers.) Lee believes the concerns underlying the Commission's newspaper-broadcast rule were and are misplaced. Moreover, in Lee's view, the rule disserves the public interest because it restrains and limits innovation and investment in broadcasting by experienced news companies whose influence would be entirely positive.

Discussion

The Commission should take cognizance of the significant changes in circumstances since adoption of the newspaper/broadcast rule in 1975, which have rendered the Commission's broad assumptions about the theoretical evils of common newspaper-broadcast ownership out-of-date and insubstantial. It is sadly ironic that in a 1970's effort to protect the independent voices of these two media, the Commission's rules in 1998 have the continuing effect of unnecessarily limiting opportunities for newspaper owners to bring to bear in their local communities the very qualities of journalistic public service and commitment to excellence that could most benefit radio and television operators and their audiences. Indeed, even at the time when the ownership ban was adopted, the Commission frankly acknowledged that it was newspaper owners who had pioneered in creating and nurturing high standards of

broadcast programming.²

By leaving this rule in place during the past 28 years, and allowing less than a handful of waivers (three), the Commission has arbitrarily foreclosed potential new owners from demonstrating the public benefits that common ownership could produce -- primarily their deep-seated commitment to local news and information and a long tradition of journalistic endeavors. Particularly, at a time when the advent of Digital Television is imposing significant new financial demands on television station owners, it is especially important to allow newspaper owners to qualify for local television ownership, because their commitments to local news and financial resources could be of great value, as they were when the broadcast industry was being formed.

With respect to those many newspaper-broadcast ownership combinations that were grandfathered in 1975, and which continue to the present, the Commission has cited no evidence tending to confirm fears about possible abuses of editorial and journalistic autonomy. Nor are we aware that any public complaints to this effect have arisen in any market. Hence, were the newspaper/broadcast ownership rule being considered for adoption today, there would appear to be no evidence to support taking that action.

The Commission's public policy rationale for the rule in 1975 had to do with concerns that a common newspaper/broadcast owner would use the two media in tandem to suppress the

² See Amendment of Sections 73.34, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard FM and Television Broadcast Stations, 50 FCC 2d 1046, 1089 (1975) (Second Report and Order), recon., 53 FCC 2d 589 (1975), rev'd in part sub nom., National Citizens Comm. for Broad. v. FCC, 555 F.2d 938 (D.C. Cir. 1977), reinstated, 436 U.S. 775 (1978).

expression of differing “voices” on local issues. But this rationale was never empirically established and, with the passage of time, its illusory nature has become more and more obvious. In a period of news/information overload, when the most often-voiced concerns are not about a lack of news but about a surfeit of it, the FCC’s 1975 conjecture on the matter of diverse voices appears particularly archaic. In the current era of Internet communication, multi-channel cable TV passing 90% of U.S. homes, direct satellite television blanketing the country, expanding TV network services, etc., it is not possible to seriously contend that Americans could be threatened with a genuine shortage of diverse news and opinion if any local newspaper and broadcast outlet were to combine. This is true today throughout the country, but most obviously in the top 50 markets. Nevertheless, the Commission continues to enforce this rule mechanistically, yielding up no waivers at all unless a station or newspaper faces imminent financial disaster. This iron rigidity in the face of radically changing circumstances over two decades is inexplicable on rational grounds, and is the antithesis of reasoned agency decisionmaking.

Lee endorses the detailed factual evidence regarding the current explosion of media outlets as set forth in the extensive filings in this proceeding by the Newspaper Association of America and the National Association of Broadcasters. We will not burden the record by restating this voluminous catalogue of changed and changing circumstances, but urge the Commission to assign to it the full weight that it deserves.

Even without giving recognition to the growing abundance of media choices currently available to the American public, Lee submits that any theoretical concerns about possible local dominance over the furnishing of news and information by a local newspaper-broadcast owner ignore real world professional and business behavior. From the professional

standpoint, there is no reason to assume that journalists would adhere to top-down orders for uniformity in news or opinion, and in fact experience shows the exact opposite. Whatever their other failings may be, journalists as a profession do not gracefully accept orders to conform to company edicts designed to limit their freedom to speak and write. Even mild suggestions to that effect elicit a volcanic reaction.

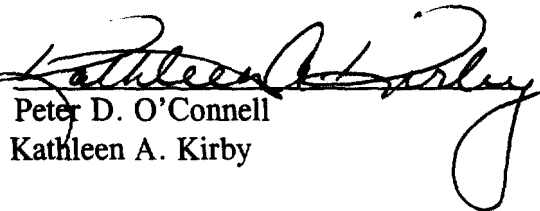
In business terms, it is hard to imagine a modern media company that would hope to sustain reader/viewer/listener confidence in its news product if it acquired the reputation (whether or not rooted in fact) for ordering editors and reporters to adopt a prescribed template for covering or reporting the news. Too many checks and balances exist, too many whistle-blowers would emerge, and too much ridicule would be expressed, for any contemporary media company to long pursue such a course. Understandably, very few material examples of this phenomenon involving newspapers and broadcast can be cited to supply evidence for the Commission's fears. Despite the many existing newspaper/broadcast combinations that continue to operate conspicuously in large and small markets around the country, there appears to be no pattern of behavior such as the FCC anticipated.

Given its questionable predicate when adopted, and lacking any bona fide reason for its retention, the newspaper-broadcast rule should be abolished. Lee respectfully urges the Commission to take into account the great abundance of competing news and information that characterizes today's local media markets; to recognize the remoteness of any prospective abuses by common owners of local newspapers and broadcast stations; to acknowledge the counterproductive consequences of enforcing the newspaper-broadcast rule under current

marketplace circumstances; and to initiate a rulemaking for the purpose of removing this outdated provision from the agency's rules.

Respectfully submitted,

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